

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

DAVID DIAZ,

*Plaintiff-Appellant,*

v.

DARYL GATES; WILLIE L. WILLIAMS;  
RICHARD ALARCON; RICHARD  
ALATORRE; HAL BERNSON; MARVIN  
BRAUDE; LAURA CHICK; JOHN  
FERRARO; MICHAEL FEUER; RUTH  
GALANTER; NATE HOLDEN, et al.,  
*Defendants,*

and

BERNARD C. PARKS, Chief of Los  
Angeles Police Department,  
*Defendant-Appellee.*

No. 02-56818

D.C. No.  
CV-01-06400-GAF  
ORDER

Filed November 18, 2004

Before: Mary M. Schroeder, Chief Judge.

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**ORDER**

Upon the vote of a majority of nonrecused regular active judges of this court,<sup>1</sup> it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to this court or any district court of the Ninth Circuit, except to the extent adopted by the en banc court.

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<sup>1</sup>Judges O'Scannlain and Fisher are recused.

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